THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.33276 OF 1998

Dated 24th March 2006

Between:

Tarra Ramana S/o.late Sanyasi Naidu & others

…Petitioners

And

The District Collector, Visakhapatnam District,

And another

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.33276 OF 1998

O R D E R:

The petitioners state that they have purchased small plots in Sy.No.1/2 of Rushikonda village of Visakhapatnam Rural Mandal, from one Sri A.Radhakrishna Murthy, through sale deeds executed in the years 1978 and 1979. Their vendor is said to have purchased that land, through sale deed dated 20.6.1968 from one Sri Regulagadda Venkat Rao. It is stated that the concerned Gram Panchayat sanctioned lay out over the said land on 2.7.1990.

With a view to get the lay out of the plots approved by the Visakhapatnam Urban Development Authority, the petitioners approached the Mandal Revenue Officer, the 2nd respondent herein, to furnish the copies of the relevant revenue records, in relation to the land. Petitioners state that, after prolonged correspondence, the 2nd respondent made an endorsement to the effect that the entire land in Sy.No.1/2 was

resumed to Government in November 1987. The petitioners challenge the action of the respondents, in treating that the land in Sy.No.1/2 was resumed, and the further action on the part of the 2nd respondent to dispossess them.

Petitioners contend that part of the land in Sy.No.1/2, was acquired by the Visakhapatnam Urban Development Authority (VUDA) for the purpose of widening the road, when it was held and owned by their vendor Radhakrishna Murthy, and compensation was paid to him. They contend that the 2nd respondent did not even furnish the date of order, through which the land is said to have been resumed, much less, any proceedings in relation thereto. It is also their case that when they are in possession and enjoyment of the property from the years 1978 and 1979, the question of resuming the same in the year 1987, without notice to them, does not arise.

In the counter affidavit filed on behalf of the respondents, it is stated that the land was assigned originally in favour of one Sri Regulagadda Venkat Rao, through D-form patta for agricultural purpose, and since it was noticed that land was not brought under cultivation even after several years, the assignment was cancelled, vide orders dated 16.11.1987, and that the land was resumed to Government on 21.11.1987. It was pleaded that mere payment of compensation under a mistaken impression does not confer any right on the petitioners, or their vendor.

Heard the learned counsel for the petitioners and learned Government Pleader for Assignment.

The land was initially held by one Regulagadda Venkat Rao. The vendor of the petitioners purchased the land from Venkat Rao on 20.6.1968, and he is said to have obtained lay out from the Gram Panchayat on 2.7.1970. The petitioners, who are 41 in number, had purchased individual plots in the years 1978 and 1979.

According to the respondents, Venkat Rao was granted
D-form patta, in respect of Ac.5-00 of land in that survey number, and that since he did not bring the land under cultivation, it was resumed to Government. Learned Government Pleader has made available the original record relating to resumption. The bound book contains about 100 orders of resumption of land, from various assignees. They are in cyclostyle forms and in none of them, there is any reference to the explanations that may have been submitted by the affected parties. The then

Mandal Revenue Officer honestly preserved the explanations submitted by some of the assignees. However, he continued his honesty in passing orders in cyclostyle only.

In most of the cases, the alterations, such as, the notice having been served in person, or the same having been displayed in the land on account of non availability of person, were also not struck of. The uniform pattern that runs across all the orders is that none of the assignees, who are more than 100, are said to have offered any explanation. It gives an impression, as though all the assignees, either have welcomed the resumption, or remained as mute spectators for such an action. This court is constrained to observe that the then MRO has made a mockery of the initiation of proceedings, under the relevant Board Standing Orders, and acted in a manner worse than that of a dictator.

Be that as it may, it is a matter of record that the vendor of the petitioners was paid compensation for part of the land, which was acquired by VUDA. The MRO, who filed the counter affidavit, has this to say in response to the said averment; “it is respectfully submitted that the payment of compensation earlier, by mistake, does not create any right for one for the assigned land”. He forgot or ignored his position, and in effect, pronounced that the District Collector, who is the authority to acquire the land, had committed a mistake. That however is the manner in which the District Collector also permitted the counter affidavit to be filed by his subordinate, on his behalf also. The whole exercise is a sad reflection of the manner, in which the Government has chosen to deal with the valuable lands.

The sales in favour of the petitioners and their predecessors in title, are evidenced by registered documents. It is rather surprising that the 2nd respondent has chosen to ignore all of them, and for him, the so-called assignment made in favour of Venkat Rao became the basis, two decades after he sold the land. Viewed from any angle, the action of the respondents cannot be sustained.

Hence, the writ petition is allowed, and it is held that the orders through which the 2nd respondent has cancelled the assignment in favour of Sri Venkat Rao, shall not be binding upon the *vis-à-vis* the petitioners. It is made clear that, if the respondents are of the view that the land deserves to be resumed to Government, it shall be open to them to issue notices to the petitioners and pass appropriate orders, after considering the explanations and recording definite finding. There shall be no order

as to costs.

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24th March 2006

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